

REAL ID Act of 2005

[Public Law 109–13]

[As Amended Through P.L. 116–260, Enacted December 27, 2020]

【Currency: This publication is a compilation of the text of Public Law 109-13. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT Making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

DIVISION B—REAL ID ACT OF 2005

SECTION 1. [8 U.S.C. 1101 note] SHORT TITLE.

This division may be cited as the “REAL ID Act of 2005”.

* * * * *

TITLE II—IMPROVED SECURITY FOR DRIVERS’ LICENSES AND PERSONAL IDENTIFICATION CARDS

SEC. 201. [49 U.S.C. 30301 note] DEFINITIONS.

In this title, the following definitions apply:

(1) DRIVER’S LICENSE.—The term “driver’s license”—

(A) means a motor vehicle operator’s license, as defined in section 30301 of title 49, United States Code; and

(B) includes driver’s licenses stored or accessed via electronic means, such as mobile or digital driver’s licenses, which have been issued in accordance with regulations prescribed by the Secretary.

(2) IDENTIFICATION CARD.—The term “identification card”—

(A) means a personal identification card, as defined in section 1028(d) of title 18, United States Code, issued by a State; and

(B) includes identification cards stored or accessed via electronic means, such as mobile or digital identification cards, which have been issued in accordance with regulations prescribed by the Secretary.

(3) OFFICIAL PURPOSE.—The term “official purpose” includes but is not limited to accessing Federal facilities, boarding federally regulated commercial aircraft, entering nuclear power plants, and any other purposes that the Secretary shall determine.

(4) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

(5) STATE.—The term “State” means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 202. [49 U.S.C. 30301 note] MINIMUM REQUIREMENTS AND ISSUANCE STANDARDS FOR FEDERAL RECOGNITION.

(a) MINIMUM STANDARDS FOR FEDERAL USE.—

(1) IN GENERAL.—Beginning 3 years after the date of the enactment of this division, a Federal agency may not accept, for any official purpose, a driver’s license or identification card issued by a State to any person unless the State is meeting the requirements of this section.

(2) STATE CERTIFICATIONS.—The Secretary shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary. Such certifications shall be made at such times and in such manner as the Secretary may prescribe by regulation.

(3) LIMITATION.—The presentation of digital information from a mobile or digital driver’s license or identification card to an official of a Federal agency for an official purpose may not be construed to grant consent for such Federal agency to seize the electronic device on which the license or card is stored or to examine any other information contained on such device.

(b) MINIMUM DRIVER’S LICENSE AND IDENTIFICATION CARD REQUIREMENTS.—To meet the requirements of this section, a State shall include, at a minimum, the following information and features on, or as part of, each driver’s license and identification card issued to a person by the State:

- (1) The person’s full legal name.
- (2) The person’s date of birth.
- (3) The person’s gender.
- (4) The person’s driver’s license or identification card number.
- (5) A digital photograph of the person, which may be the photograph taken by the State at the time the person applies for a driver’s license or identification card or may be a digital photograph of the person that is already on file with the State.
- (6) The person’s address of principal residence.
- (7) The person’s signature.

(8) Security features designed to prevent tampering, counterfeiting, or duplication of the driver's license or identification card for fraudulent purposes.

(9) A common machine-readable technology, with defined minimum data elements.

(c) MINIMUM ISSUANCE STANDARDS.—

(1) IN GENERAL.—To meet the requirements of this section, a State shall require, at a minimum, presentation and verification of the following information before issuing a driver's license or identification card to a person:

(A) A photo identity document, except that a non-photo identity document is acceptable if it includes both the person's full legal name and date of birth.

(B) Documentation showing the person's date of birth.

(C) The person's social security account number or verification that the person is not eligible for a social security account number.

(D) Documentation showing the person's name and address of principal residence.

(2) SPECIAL REQUIREMENTS.—

(A) IN GENERAL.—To meet the requirements of this section, a State shall comply with the minimum standards of this paragraph.

(B) EVIDENCE OF LAWFUL STATUS.—A State shall require, before issuing a driver's license or identification card to a person, valid documentary evidence that the person—

(i) is a citizen or national of the United States;

(ii) is an alien lawfully admitted for permanent or temporary residence in the United States;

(iii) has conditional permanent resident status in the United States;

(iv) has an approved application for asylum in the United States or has entered into the United States in refugee status;

(v) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;

(vi) has a pending application for asylum in the United States;

(vii) has a pending or approved application for temporary protected status in the United States;

(viii) has approved deferred action status;

(ix) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States; or

(x) is a citizen of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau who has been admitted to the United States as a nonimmigrant pursuant to a Compact of Free Association between the United States and the Republic or Federated States.

(C) TEMPORARY DRIVERS' LICENSES AND IDENTIFICATION CARDS.—

(i) IN GENERAL.—If a person presents evidence under any of clauses (v) through (ix) of subparagraph (B), the State may only issue a temporary driver's license or temporary identification card to the person.

(ii) EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.

(iii) DISPLAY OF EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date on which it expires.

(iv) RENEWAL.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary driver's license or temporary identification card has been extended by the Secretary of Homeland Security.

(3) ELECTRONIC PRESENTATION OF IDENTITY AND LAWFUL STATUS INFORMATION.—A State may accept information required under paragraphs (1) and (2) through the use of electronic transmission methods if—

(A) the Secretary issues regulations regarding such electronic transmission that—

(i) describe the categories of information eligible for electronic transmission; and

(ii) include measures—

(I) to ensure the authenticity of the information transmitted;

(II) to protect personally identifiable information; and

(III) to detect and prevent identity fraud; and

(B) the State certifies to the Department of Homeland Security that its use of such electronic methods complies with regulations issued by the Secretary.

(4) VERIFICATION OF DOCUMENTS.—To meet the requirements of this section, a State shall implement the following procedures:

(A) Before issuing a driver's license or identification card to a person, the State shall verify, with the issuing agency, the issuance, validity, and completeness of the information and documentation required to be presented by the person under paragraph (1) or (2).

(B) The State shall not accept any foreign document, other than an official passport, to satisfy a requirement of paragraph (1) or (2).

(C) Not later than September 11, 2005, the State shall enter into a memorandum of understanding with the Sec-

retary of Homeland Security to routinely utilize the automated system known as Systematic Alien Verification for Entitlements, as provided for by section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009-664), to verify the legal presence status of a person, other than a United States citizen, applying for a driver's license or identification card.

(d) OTHER REQUIREMENTS.—To meet the requirements of this section, a State shall adopt the following practices in the issuance of drivers' licenses and identification cards:

(1) Employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format.

(2) Retain paper copies of source documents for a minimum of 7 years or images of source documents presented for a minimum of 10 years.

(3) Subject each person applying for a driver's license or identification card to mandatory facial image capture.

(4) Establish an effective procedure to confirm or verify a renewing applicant's information.

(5) Confirm with the Social Security Administration a social security account number presented by a person using the full social security account number. In the event that a social security account number is already registered to or associated with another person to which any State has issued a driver's license or identification card, the State shall resolve the discrepancy and take appropriate action.

(6) Refuse to issue a driver's license or identification card to a person holding a driver's license issued by another State without confirmation that the person is terminating or has terminated the driver's license.

(7) Ensure the physical security of locations where drivers' licenses and identification cards are produced and the security of materials, records, and data from which drivers' licenses and identification cards are produced.

(8) Subject all persons authorized to manufacture or produce drivers' licenses and identification cards to appropriate background checks.

(9) Establish fraud detection and prevention training programs for appropriate employees engaged in the issuance of drivers' licenses and identification cards.

(10) Limit the period of validity of all driver's licenses and identification cards that are not temporary to a period that does not exceed 8 years.

(11) In any case in which the State issues a driver's license or identification card that does not satisfy the requirements of this section, ensure that such license or identification card—

(A) clearly states on its face that it may not be accepted by any Federal agency for federal identification or any other official purpose; and

(B) uses a unique design or color indicator to alert Federal agency and other law enforcement personnel that it may not be accepted for any such purpose.

(12) Provide electronic access to all other States to information contained in the motor vehicle database of the State.

(13) Maintain a State motor vehicle database that contains, at a minimum—

(A) all data fields printed on drivers' licenses and identification cards issued by the State; and

(B) motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on licenses.

SEC. 203. TRAFFICKING IN AUTHENTICATION FEATURES FOR USE IN FALSE IDENTIFICATION DOCUMENTS.

(a) **CRIMINAL PENALTY.**—Section 1028(a)(8) of title 18, United States Code, is amended by striking “false authentication features” and inserting “false or actual authentication features”.

(b) **[49 U.S.C. 30301 note] USE OF FALSE DRIVER'S LICENSE AT AIRPORTS.**—

(1) **IN GENERAL.**—The Secretary shall enter, into the appropriate aviation security screening database, appropriate information regarding any person convicted of using a false driver's license at an airport (as such term is defined in section 40102 of title 49, United States Code).

(2) **FALSE DEFINED.**—In this subsection, the term “false” has the same meaning such term has under section 1028(d) of title 18, United States Code.

[Section 204 was repealed by section 1001(b)(3) of division U of Public Law 116–260.]

SEC. 205. [49 U.S.C. 30301 note] AUTHORITY.

(a) **PARTICIPATION OF SECRETARY OF TRANSPORTATION AND STATES.**—All authority to issue regulations, set standards, and issue grants under this title shall be carried out by the Secretary, in consultation with the Secretary of Transportation and the States.

(b) **EXTENSIONS OF DEADLINES.**—The Secretary may grant to a State an extension of time to meet the requirements of section 202(a)(1) if the State provides adequate justification for noncompliance.

SEC. 206. REPEAL.

Section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458) is repealed.

SEC. 207. [49 U.S.C. 30301 note] LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this title shall be construed to affect the authorities or responsibilities of the Secretary of Transportation or the States under chapter 303 of title 49, United States Code.

SEC. 208. [49 U.S.C. 30301 note] NOTIFICATION OF REQUIREMENTS AND DEADLINES.

During the 15-month period beginning 90 days before the date on which Federal agencies will no longer accept, for official purposes, driver's licenses and identification cards that do not comply with the requirements under section 202, aircraft operators and

third party reservation entities shall notify passengers about the requirements and enforcement deadlines under this Act.

* * * * *